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AKSHAY S. DEORAS, P.C., AND MARK FAHEY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ZOYA KOVALENKO,

Plaintiff,

v.

KIRKLAND & ELLIS LLP, MICHAEL DE
VRIES, MICHAEL W. DEVRIES, P.C.,
ADAM ALPER, ADAM R. ALPER, P.C.,
AKSHAY DEORAS, AKSHAY S. DEORAS,
P.C., AND MARK FAHEY,

Defendants.

Case No. 4:22-CV-05990-HSG

**DECLARATION OF KATE JUVINALL
IN SUPPORT OF JOINT DISCOVERY
LETTER**

1 I, Kate Juvinall, declare as follows:

2 1. I am a member of the State Bar of California and am authorized to practice before
3 this Court. I am an attorney at Orrick, Herrington & Sutcliffe LLP, counsel of record for
4 Defendants Kirkland & Ellis LLP (“K&E”), Michael De Vries, Michael W. De Vries, P.C., Adam
5 Alper, Adam R. Alper, P.C., Akshay Deoras, Akshay S. Deoras, P.C., and Mark Fahey
6 (collectively “Defendants”) in this action. I make this declaration in support of the Parties’ Joint
7 Discovery Letter. The facts set forth in this declaration I know to be true of my own personal
8 knowledge, except where such facts are stated to be based on information and belief, and those
9 facts I believe to be true. If called to testify in this matter, I could and would testify competently
10 to the matters set forth in this declaration.

11 2. On August 8, 2023, K&E served Requests for Production of Documents (“RFP”) and Interrogatories (“ROG, Set One”) on Plaintiff. The RFPs largely tracked the factual and legal
12 allegations in Plaintiff’s 300+ paragraph Amended Complaint.
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14 3. The four interrogatories K&E served sought the: (1) identity of Plaintiff’s mental
15 health providers (ROG 1), (2) identity of her prior employers (ROG 2), (3) identity of her
16 subsequent employers (ROG 3), and (4) identity of prior litigation to which Plaintiff was a party
17 (ROG 4).

18 4. K&E granted Plaintiff two extensions to respond totaling 60 days. On November
19 8, 2023, Plaintiff served her responses to K&E’s discovery requests. A true and correct copy of
20 my correspondence with Plaintiff regarding the extensions is attached hereto as **Exhibit A**, at 3,
21 8.

22 5. Plaintiff’s responses to the RFPs consisted of 1,300 pages of boilerplate
23 objections, and Plaintiff produced no responsive documents. A true and correct copy of Plaintiff’s
24 RFP responses is attached hereto as **Exhibit B**.

25 6. In response to ROG, Set One, Plaintiff provided a complete response to only ROG
26 No. 3. A true and correct copy of Plaintiff’s ROG responses is attached hereto as **Exhibit C**.

27 7. The same day Plaintiff served her responses, Plaintiff’s counsel filed a notice of
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1 appearance.

2 8. I contacted Plaintiff's counsel on November 14, 2023, to schedule a time to meet
3 and confer regarding Plaintiff's deficient discovery responses. On November 16, 2023, the Parties
4 had an initial meet and confer conference via Zoom. During the call, I raised Plaintiff's
5 boilerplate and inadequate discovery responses, and Plaintiff's counsel agreed to review the
6 responses and then follow-up with me to see if the Parties could resolve any disputes without
7 court intervention. A true and correct copy of communications between counsel are attached as
8 **Exhibit D**, at 11-13,

9 9. Having received no response from Plaintiff by December 11, 2023, I followed up
10 and requested a second meet and confer conference, which occurred on December 20, 2023. *See*
11 *id.* at 10-11. During the conference, I walked through various issues K&E had with Plaintiff's
12 discovery responses, delineated by specific RFP and ROG number. Despite having previously
13 agreed to review and evaluate Plaintiff's discovery responses, Plaintiff's counsel could provide no
14 substantive response to these issues and, with respect to every request, stated he would raise them
15 with Plaintiff and get back to me. *See id.* at 4-8. Plaintiff's counsel agreed to provide further
16 responses by January 5, 2024. I stated K&E would seek court intervention if Plaintiff did not
17 provide satisfactory responses by that date.

18 10. Plaintiff's counsel did not provide any further information on January 5 but
19 contacted K&E that same day and asked to meet and confer. The parties met and conferred a third
20 time on January 18, 2024. at which time Plaintiff agreed:

- 21 • To produce responsive documents to RFPs about which Plaintiff responded she was
22 willing to meet and confer (RFPs 1-169, 172-75, 178-91, 195-200) (*id.* at 6);
- 23 • To produce additional responsive documents RFPs to which Plaintiff responded she had
24 already produced some documents (RFPs 10-14, 175-76, 198) (*id.*);
- 25 • To produce responsive documents to RFPs to which Plaintiff responded that the
26 documents were publicly available (RFP 51) (*id.* at 6-7);
- 27 • To search for and produce responsive documents concerning her "verbal" allegations
28 (RFPs 64-67, 75-76) (*id.* at 7);

- 1 • To search for and produce responsive documents showing income post-K&E (RFP 182) (*id.*);
- 2 • To search for and produce documents regarding disability benefits (RFP 183) (*id.* at 7-8);
- 3 and
- 4 • To search for and produced documents showing that FEHA applies extraterritorially to
- 5 Defendant Mark Fahey (RFP 194) (*id.* at 8).

6 Plaintiff agreed to supplement responses to ROGs 2 and 4 and provide a response to ROG 1 upon
 7 entry of a protective order. *Id.* at 5-6. Plaintiff provided no update as to whether she would
 8 produce documents responsive to RFPs 201, 202. *Id.*

9 11. On January 29, I e-mailed Plaintiff's counsel to summarize Plaintiff's agreements
 10 from January 18, including that K&E would seek court intervention if Plaintiff failed to timely
 11 provide satisfactory responses given the six-month delay. *See id.* at 4.

12 12. On February 9, Plaintiff provided a bates stamped versions of documents she
 13 previously produced but did not provide any additional documents responsive to K&E's August 8
 14 requests. *See id.* at 2.

15 13. On March 1, 2024, I informed Plaintiff's counsel that K&E intended to file a joint
 16 letter regarding its discovery disputes with Plaintiff by March 6, 2024. A true and correct copy of
 17 my correspondence with Plaintiff's counsel is attached hereto as **Exhibit E**.

18 14. On March 5, 2024, Plaintiff produced additional documents, and on March 6,
 19 2024, Plaintiff's counsel emailed me asserting that the joint discovery letter was premature
 20 because Plaintiff was committed to amend her ROG responses once a protective order is in place
 21 and intended to produce additional documents that evening. I responded that, notwithstanding
 22 Plaintiff's productions, there were still many RFPs for which no documents were produced, and
 23 Plaintiff did not provide amended RFP responses to incorporate the agreements made during prior
 24 meet and confer conferences. K&E agreed to hold off from filing the letter in light of Plaintiff's
 25 pending production. A true and correct copy of my correspondence with Plaintiff's counsel is
 26 attached hereto as **Exhibit F**.

27 15. On May 3, 2024, my office e-mailed Plaintiff's counsel regarding deficiencies
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1 with Plaintiff's responses to ROG, Set Two, and asked for Plaintiff's counsel's availability the
2 following week to meet and confer. A true and correct copy of my office's correspondence with
3 Plaintiff's counsel is attached hereto as **Exhibit G**, and a true and correct copy of Plaintiff's
4 unverified responses to ROG, Set Two, are attached as **Exhibit H**.

5 16. On May 7, 2024, K&E provided Plaintiff with a revised joint letter addressing the
6 Parties' disputes regarding RFP Set One, and ROG Sets Two and Three, and requesting that
7 either the Parties set a time to meet and confer, or that Plaintiff provide her portion of the joint
8 letter by May 10, 2024. A true and correct copy of my correspondence with Plaintiff's counsel is
9 attached hereto as **Exhibit I**.

10 17. Plaintiff responded on May 13, 2024, falsely accusing K&E of failing to meet and
11 confer regarding the issues contained in the letter and responding to various issues K&E raised in
12 the discovery letter sent to Plaintiff's counsel on May 7. *See id.* at 1. I replied via e-mail on May
13 16 explaining why Plaintiff's positions were meritless and noting, among other things, that the
14 primary reason for seeking the Court's involvement was because Plaintiff was now refusing to
15 comply with agreements Plaintiff's counsel made back in January 2024. *Id.*

16 18. The parties met and conferred via telephone on May 20, 2024, at which time
17 Plaintiff's counsel agreed to discuss the issues with Plaintiff and provide Plaintiff's portion of the
18 joint statement that week.

19 19. On May 24, 2024, Plaintiff provided her portion of the joint letter, which included
20 comments in the margins responding to various issues raised in the Parties' prior meet and confer
21 correspondence. A true and correct copy of Plaintiff's correspondence is attached hereto as
22 **Exhibit J**.

23 20. On June 11, 2024, I sent Plaintiff's counsel revisions to the joint discovery letter,
24 and memorialized in writing Plaintiff's positions that were in the comments of the May 24 joint
25 letter. I followed up with Plaintiff's counsel on June 18, 2024 regarding any additional revisions
26 to the discovery letter. Plaintiff provided her final revisions on June 24, 2024, a true and correct
27 copy of which is attached as **Exhibit K (attachments omitted)**. To date, Plaintiff has refused to
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1 confirm whether her production is complete. Moreover, Plaintiff's counsel stated more than once
2 during meet and confer telephone calls that he was waiting for Plaintiff to send him responsive
3 documents.

4 21. As of today's date, the Parties agree on all language contained in a protective order
5 to govern this case, except for language related to Federal Rule of Evidence 502(d). K&E's
6 proposed protective order is attached hereto as **Exhibit L**, and a redline against the Northern
7 District Model Order is attached as **Exhibit M**.

8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct. Executed in Los Angeles, California on June 24, 2024.

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12 _____
13 Kate Juvinall
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